

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

TUESDAY, THE 10TH DAY OF MARCH 2015/19TH PHALGUNA, 1936

WP(C).No. 12171 of 2014 (V)

PETITIONER(S):

1. **RAMESH P.,
S/O.PERUMAL, 7/3, THANDA ROAD,
KOLATHUR, METTURDAM, SALEM,
TAMIL NADU, (OWNER OF AN EXCAVATOR/JCB
BEARING REGISTRATION NO.TN-52Y/7629)**
2. **UDAYAKUMAR K.S.,
S/O.SIVAN PILLAI, KATTUPARAMBIL HOUSE, IDIVANNA,
NILAMBUR, MALAPPURAM DISTRICT. (OWNER OF A MINI
LORRY BEARING REGISTRATION NO.KL-10AG/6999)**
3. **USMAN,
S/O.ABU, THONDIYAN HOUSE, KARULAI,
NILAMBUR, MALAPPURAM DISTRICT.
(OWNER OF A MINI LORRY
BEARING REGISTRATION NO.KL-10AG/7595)**

**BY ADVS.SRI.BABU S. NAIR
SMT.SMITHA BABU**

RESPONDENT(S):

1. **THE REVENUE DIVISIONAL OFFICER,
PERINTHALMANNA, MALAPPURAM, PIN - 679 322.**
2. **THE SUB INSPECTOR OF POLICE,
POOKOTTUMPADAM POLICE STATION, MALAPPURAM DISTRICT,
PIN - 679 332.**
3. **THE ASSISTANT SUB INSPECTOR OF POLICE,
POOKOTTUMPADAM, MALAPPURAM DISTRICT, PIN - 679 332.**

R BY GOVERNMENT PLEADER SMT. ANITHA RAVINDRAN

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 10-03-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

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APPENDIX

PETITIONER(S)' EXHIBITS

**EXHIBIT P1 : TRUE COPY OF THE SEIZURE MAHAZAR PREPARED BY THE 3RD
RESPONDENT DATED 05.05.2014**

RESPONDENT(S)' EXHIBITS

NIL

//TRUE COPY//

P.A. TO JUDGE

AD/

P.R. RAMACHANDRA MENON J.

W.P.(C) No.12171 of 2014

Dated, this the 10th day of March, 2015

JUDGMENT

The vehicles bearing Nos. **TN-52Y/7629, KL-10AG/6999 and KL-10AG/7595** were seized by the 3rd respondent alleging offence under the Mines and Mineral (Development and Regulation) Act and the Kerala Minor Mineral Concession Rules. The main ground of challenge is that, the 3rd respondent is not having the jurisdiction or authority to effect seizure.

2. Heard both the sides.

3. The authority of the respondent to effect seizure has already been considered by this Court and the power and competence has been upheld as per the decision reported in **Aloshias C. Antony Vs. Government of Kerala** [2014(1) KLT 536]. The said decision was rendered, also taking note of the nature of offence which is a 'cognizable' one (notwithstanding anything contained in the Cr.P.C) as stipulated in Section 21(6) of MMDR Act, 1957 and also placing reliance on the judgment rendered by a Division Bench

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of this Court in **Construction Materials Movers Association**

V. State of Kerala [2008 (4) KLT 909]. In the said circumstance, there is no tenable ground to call for interference.

4. When the matter came up for consideration on **9.5.2014**, the vehicles were caused to be released, **on satisfaction of a sum Rs.25,000/-**. In the said circumstance, the further course of action required is to surrender the vehicles before the 3rd respondent, so as to enable the respondent to produce it before the concerned Magistrate having jurisdiction over the area and to proceed with steps for prosecution, unless the offence is sought to be compounded.

5. The petitioners express desire to compound the offence by virtue of the enabling provisions under the relevant provisions of law. This Court finds it fit and proper to permit the petitioners to have the offence compounded on satisfying the compounding fee of Rs.25,000/- on each vehicle. The amount ordered to be paid as per the interim order dated **9.5.2014** shall be treated as compounding fee and offence shall be treated as compounded. Once the offence is

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compounded, no prosecution proceedings will lie in view of the law declared by this Court in **Digil Vs. Sub Inspector of Police** [2013(1) KLT 600]. It shall be reported to the concerned Magistrate, if the crime has already been reported. If there is any failure in satisfying the compounding fee, the respondent shall pursue further steps in connection with the prosecution before the concerned Magistrate having jurisdiction over the area.

The writ petition is disposed of.

Sd/-

**P. R. RAMACHANDRA MENON,
JUDGE**

rkc